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FISCAL IMPACT STATEMENT

LS 7759

BILL NUMBER: HB 1417

NOTE PREPARED: Feb 22, 2007

BILL AMENDED: Feb 19, 2007

SUBJECT: Captive Insurers in Indiana.

FIRST AUTHOR: Rep. Ripley

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: The bill specifies requirements for a captive insurer to do business in Indiana. It imposes fees and premium taxes to be paid by a captive insurer. It also establishes a captive insurer trust fund.

Effective Date: July 1, 2007.

Explanation of State Expenditures: The bill provides that a captive insurer may apply to the commissioner of the Department of Insurance (DOI) for a certificate of authority to engage in the business of insurance in Indiana. The DOI would implement the provisions of the bill.

It is not possible to estimate the fiscal impact of the proposal because there is no way of knowing how many, if any, captive insurance companies will form in Indiana as a result of the proposal. It is possible that the DOI would need additional staff if the DOI received several captive applications. If additional staff is required, the expenses of one PATI would be \$57,423 in FY 2007 and \$56,510 in FY 2008.

It is possible that the DOI would not need to hire an additional employee initially because the bill provides that the commissioner may retain legal, financial, and examination consulting services to examine and investigate applications. Reasonable costs incurred may be charged to the captive insurer or the commissioner may use internal resources for a fee of \$2,400. Presumably this fee would be deposited in the DOI fund which is used to finance the operations of the DOI.

Captive Insurers Trust Fund: The bill establishes the fund for the purpose of funding the enforcement of captive insurers. The fund must be administered by the commissioner. Expenses of administering the fund

must be paid from money in the fund.

Background: Arizona launched a captive program in July 2002, and it has 51 captives with 4-5 pending. According to the captive administrator for the Arizona Department of Insurance, the state has two full-time employees to oversee the captive market, and uses 10 part-time professionals. The District of Columbia began a program in February 2001 and has 47 captives. South Carolina has 119 captives, generating about \$1.5 M in premium taxes and another \$200,000 in fees. However, the South Carolina tax rate is slightly higher than what is in the proposal. Vermont had 542 captive insurers in 2005.

Explanation of State Revenues: Tax on Net Premiums: A captive insurer is liable for a tax on net direct premiums, to be paid not later than March 1 of each year, as follows:

- (1) 0.250% on the first \$5 M of the captive insurer's net direct premiums.
- (2) 0.150% on the next \$25 M.
- (3) 0.050% on each additional \$1 of the captive insurer's net direct premiums.

A captive insurer is liable for a tax on assumed reinsurance premiums each year as follows:

- (1) 0.225% on the first \$25 M of revenue from assumed reinsurance premiums.
- (2) 0.150% on the next \$25 M.
- (3) 0.025% on each additional \$1 of revenue from assumed reinsurance premiums.

If the sum of taxes to be paid by a captive insurer, other than a risk retention group captive insurer, is less than \$7,500 per year, the captive insurer must pay a minimum tax of \$7,500 for the year. If the sum of the taxes to be paid by a risk retention group captive insurer is less than \$10,000 in a year, the captive insurer must pay a minimum tax of \$10,000. The total state tax paid by a captive insurer must not exceed \$100,000 in a particular year.

The amount of revenue that this bill will raise is indeterminable and will depend on the number of captive insurers that elect to do business in Indiana. The bill, however, does provide that the total state tax paid by a captive insurer must not exceed \$100,000 in a particular year.

Captive Insurer Trust Fund: The bill establishes the fund for the purpose of funding the enforcement of captive insurers. The Treasurer of State must invest money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments must be deposited in the fund. Money in the fund at the end of a state fiscal year does not revert to the state General Fund. 100% of revenues collected from taxes must be deposited in the Captive Insurer Trust Fund. The amount of revenue that will be collected will depend on the number of captive insurers that apply for a certificate.

Fees: Presumably, revenue collected from fees would be deposited in the DOI fund. A captive insurer must pay to the DOI an application fee of \$500. A captive insurer must also pay an annual renewal fee of \$500. A captive insurer that maintains a protected cell must pay an additional annual fee in an amount to be established by the commissioner for each protected cell. Additionally, the DOI may charge a \$15 fee for a document that requires a certification of authenticity by the DOI or the signature of the commissioner.

The commissioner may charge a reasonable cost of legal, financial, and examination consulting services to examine and investigate an application to the captive insurer. The commissioner may also use internal resources to examine and investigate the application for a fee of \$2,400. Presumably, these funds would also be deposited in the DOI fund.

Civil Penalty: After notice and hearing, the commissioner may impose on a captive insurer a civil penalty of not more than \$5,000 for violation of the provisions of the captive insurer. The amount of revenue that will be generated by civil penalties is indeterminable. Penalties would be deposited in the state General Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: DOI; Treasurer of State.

Local Agencies Affected:

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